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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/777,358 | 02/12/2004 | Steven Tischer | 030514 (BLL-0143) | 5081 |
| 36192 | 7590 | 12/06/2006 | EXAMINER | |
| CANTOR COLBURN LLP - BELLSOUTH | | | ALLEN, WILLIAM J | |
| 55 GRIFFIN ROAD SOUTH | | | ART UNIT | |
| BLOOMFIELD, CT 06002 | | | PAPER NUMBER | |
| | | | 3625 | |

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/777,358

Applicant(s)

TISCHER, STEVEN

Examiner

William J. Allen

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 20-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Prosecution History Summary

Claims 1-9 and 20-22 are pending and rejected below.

Claims 10-19 have been previously canceled.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/2/2006 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 4, 6, 7-9, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forslund et al. (US 6250557) in view of Moskowitz et al. (US 20040015403).**

Regarding claims 1 and 20, Forslund teaches a user mobile device such as a mobile phone complete with “a smart card wallet” facilitating secure shopping transactions made via the phone (see at least: abstract, col. 2 lines 51-64). Forslund further teaches a user establishing a shopping list prior to visiting a shopping mall, with the list being stored on the smart card wallet of the mobile phone. As the user enters the mall, the smart card wallet broadcasts the list of items to be purchased along with associated discount information (i.e. *transmitting a first data message using a mobile transceiver device, the first data message having information on a desired product or service*), with the “broadcasting” done in order to retrieve a list of stores and the items they offer in accordance with the transmitted list (i.e. *there is a determination whether at least one of the product or service providers has the desired product or service*). With no identification of specific store (i.e. *product or service providers*), the product list is transmitted *regardless of identities of the product or service providers and abilities of the product or service providers to provide the desired product or service*. By Forslund also teaches *transmitting a*

Art Unit: 3625

second signal including a second data message to the mobile transceiver device, the second data message containing an offer to sell the desired product or service by displaying the stores and their respective offerings to allow a user to select the best stores to make purchases from (see at least: col. 8 line 54-col. 9 line 6, claims 1 and 10).

Though Forslund teaches all of the above and the transmission of the first data message, Forslund does not teach where the message is *iteratively transmitted to the product or service providers*.

In the same field of endeavor, Moskowitz teaches a Bluetooth enabled portable device having browser to exchange data with a merchants within range of the device (see at least: abstract; 0004). More particularly, both the customer's wireless device and the merchant's wireless device periodically, and thereby *iteratively*, transmits a short-range identity signal (see at least: 0004, Fig. 3 (#302)). Thereby, Moskowitz teaches where a first data message is *iteratively transmitted to the product or service providers* within range of the device.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Forslund to have included a first data message that is *iteratively transmitted to the product or service providers* within range of the device taught by Moskowitz in order to ensure a transmission is completed. By periodically, and therefore iteratively, transmitting the signal, the device itself automatically repeats the signal to ensure that a receiver receives the message and the transaction is completed, thereby facilitating a quick and automated way of

Art Unit: 3625

carrying out an offer, acceptance, and delivery of services and goods (see at least: Moskowitz, 0004, 0008).

Regarding claim 4, Forslund in view Moskowitz further teaches sending a menu of goods and services to the user resulting from the detection of a first data signal. Thereby, Moskowitz teaches sending an *offer to sell a product or service in the second data message including a product or service identifier and a price of the product or service* (see at least: Moskowitz, abstract (note “menu of goods/service”), 0005, 0033-0034, Fig. 3). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Forslund to have included sending an *offer to sell a product or service in the second data message including a product or service identifier and a price of the product or service* as taught by Moskowitz in order to facilitate a quick and automated way of carrying out an offer, acceptance, and delivery of services and goods (see at least: Moskowitz, 0004, 0008).

Regarding claim 6, Forslund further teaches *wherein the mobile transceiver device comprises a cellular telephone* (see at least: Fig. 1A-2B).

Regarding claim 7, Forslund in view of Moskowitz teaches *wherein the product or service providers directly receives the first signal having the first data message at the store location* (see at least: Moskowitz, Fig. 1, abstract, 0004).

Regarding claim 8, Forslund in view Moskowitz further teaches transmission in *predetermined time intervals* (see at least: Moskowitz, 0004). Webster's Dictionary defines the term periodic as repeated cycles occurring at regular intervals; thereby, Moskowitz encompasses the term *predetermined time intervals*. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Forslund to have included transmission at *predetermined time intervals* as taught by Moskowitz in order to facilitate a quick and automated way of carrying out an offer, acceptance, and delivery of services and goods (see at least: Moskowitz, 0004, 0008).

Regarding claim 9, Forslund further teaches *receiving the second signal by the cellular telephone and displaying the second data message from the signal on the display screen* (see at least: col. 8 line 66-col. 9 line 1).

Regarding claim 21, Forslund in view of Moskowitz further teaches *wherein iteratively transmitting the first signal includes iteratively transmitting the first signal through multiple communication protocol to transmit the first signal in each protocol* (see at least: Moskowitz, 0017-0018, 0023-0024). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of Forslund to have included *wherein iteratively transmitting the first signal includes iteratively transmitting the first signal through multiple communication protocol to transmit the first signal in each protocol* as taught by Moskowitz in order to facilitate a quick and automated way of carrying out an offer, acceptance, and delivery of services and goods (see at least: Moskowitz, 0004, 0008).

3. Claims 2-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forslund in view of Moskowitz as applied to claims 1, 4, 6-9, and 20-21, and in further view of Walker et al. (US 5794207).

Regarding claims 2-3 and 5, Forslund in view of Moskowitz teaches all of above as noted and further teaches sending a first data message includes a product or service identifier (see at least: Forslund, col. 8 lines 54-62 (note the “list” must contain *identifiers*). Forslund in view of Moskowitz, however, does not expressly teach *a desired price* and an *expiration date wherein an offer to sell the desired product or service is not desired after the expiration date*, and a second data message further including an offer expiration date wherein the offer to sell expires after the offer expiration date.

Walker teaches where a first data message (CPO) transmitted from a wireless PDA includes a subject and description of the desired good or service, *a desired price* and an *expiration date wherein an offer to sell the desired product or service is not desired after the expiration date* (see at least: Fig. 5 (#540 and #550), Fig. 7, col. 16 line 12-col. 17 line 64). Walker also teaches wherein a seller may submit a counter offer following the same process that the buyer uses to generate the CPO (see at least: Fig. 18, col. 22 lines 52-58). The Examiner notes that this process encompasses the addition of an expiration date (now by the seller), thereby Walker teaches *a second data message further including an offer expiration date wherein the offer to sell expires after the offer expiration date*. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Forslund in view of Moskowitz to have

Art Unit: 3625

included a second data message further including an offer expiration date wherein the offer to sell expires after the offer expiration date as taught by Walker in order to provide a system that allows a seller satisfying the buyer criteria to bind the buyer to the offer and collect funds immediately (see at least: col. 7 lines 36-42).

4. Claims 2-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forslund in view of Moskowitz as applied to claims 1, 4, 6-9, and 20-21, and in further view of Silverman et al. (US 5136501).

Regarding claim 22, Forslund in view of Moskowitz teaches all of the above as noted and further teach where a second data message contains multiple offers to sell, the offers to sell being from stores matching the buyer criteria and displayed in order to allow the buyer to select the best stores to purchase from (see at least: Forslund, col. 8 line 54–col. 9 line 6).

Though Forslund in view of Moskowitz teaches receiving multiple second messages and determining the best stores, Forslund in view of Moskowitz does not expressly teach *predetermined number of data messages for sale with the lowest price.*

Silverman teaches a matching system for effectuating trades between two entities (see at least: abstract). Silverman further teaches receiving a plurality bids/offers (i.e. *second data message*) and routing those bids/offers to a user “keystation”. The bids/offers available to the user, however, are merely a restricted subset of the total bids/offers. The “keystation book display”

Art Unit: 3625

include displayable data (i.e. the bids/offers received) with the displayable data having a defined display depth range (see at least: col. 2 lines 17-35, col. 4 line 66-col. 5 line 7). Furthermore, the bids/offers are matched and displayed based on various criteria including price (see at least: col. 3 lines 39-43). Thereby, Silverman teaches where the second data message provided to the user contains *a predetermined number of data messages for sale with the lowest price*.

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Forslund in view of Moskowitz to have included *predetermined number of data messages for sale with the lowest price* as taught by Silverman in order to provide a system that reduces overhead required by a network and efficiently transmit required information to a user of the network (see at least: Silverman, col. 2 lines 30-33, col. 5 lines 33-35).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

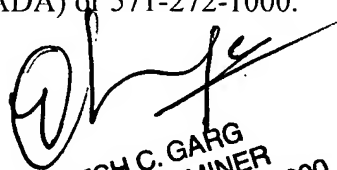
- US 20040064378 discloses a customer solicitation support system and information provision server

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William J. Allen
Patent Examiner
December 1, 2006


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